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UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON

12 Cassie Cordell Trueblood, next friend of
13 Ara Badayos, an incapacitated person;
14 The Snohomish County Public Defender
15 Association, a non-profit corporation;

No. 14-cv-01178

Plaintiffs,

v.

16 The Washington State Department of
17 Social and Human Services; Western
18 State Hospital; Kevin W. Quigley,
19 Secretary of the Department of Social
20 and Human Services, in his personal
21 and official capacity; Ron Alder, Chief
Executive Officer of Western State
Hospital, in his personal and official
capacity; Dr. Brian Waiblinger, Medical
Director of Western State Hospital, in
his personal and official capacity;

**[PROPOSED]
ORDER GRANTING TEMPORARY
RESTRAINING ORDER AND
PRELIMINARY INJUNCTIVE RELIEF**

Defendants.

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26 **[PROPOSED] ORDER - PAGE 1**

27 Braden Cyrus Pence
28 Snohomish County Public Defender Association
2722 Colby Avenue, Suite 200
Everett, WA 98201

1 Having reviewed Plaintiffs' Emergency Motion for Preliminary Injunction and
2 Temporary Restraining Order and supporting papers, Defendants' response thereto,
3 oral argument from the Parties, and the case file, and otherwise being fully informed,
4 the Court hereby FINDS:

- 5 A. Plaintiffs have a substantial likelihood of success on the merits of their
6 claims for constitutional substantive due process violations;
- 7 B. Plaintiffs' legally incompetent clients are suffering on-going irreparable
8 injury as a result of those violations;
- 9 C. The hardships endured by mentally ill persons held unlawfully in county
10 jails are far greater than any hardship Defendants might bear in complying
11 with the law;
- 12 D. The public's interest is advanced by the enforcement of the constitutional
13 right to substantive due process; and
- 14 E. Immediate preliminary injunctive relief is the only remedy adequate to
15 protect Plaintiffs' clients.

16 Accordingly, pending final resolution of this matter, the Court ORDERS that:

- 17 1. Defendants are enjoined and restrained from failing to provide legally
18 incompetent in-custody individuals subject to a trial court order submitted
19 pursuant to RCW 10.77 with transportation to Western State Hospital or
20 an functionally equivalent mental health treatment facility within seven
21 days of Defendant's receipt of such order;
- 22 2. Defendants are enjoined and restrained from failing to provide legally
23 incompetent in-custody individuals subject to a trial court order submitted
24 pursuant to RCW 10.77 with professional mental health competency
25 restoration treatment at Western State Hospital or an functionally

1 equivalent mental health treatment facility within seven days of
2 Defendant's receipt of such order;

3 3. With respect to the legally incompetent in-custody individuals referenced
4 in paragraphs 1 and 2 who have waited longer than seven days for
5 transportation and treatment, including Ms. Badayos, Defendants are
6 enjoined and restrained from failing to provide the services described in
7 paragraphs 1 and 2 in less than 48 hours from the entry of this Order;
8 4. Defendants are subject to sanctions for contempt of court in the amount of
9 \$600 per day, per individual for any violation of this order.

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3 - COMPLAINT

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1 Plaintiff's motions for a Temporary Restraining Order and Preliminary Injunction
2 are GRANTED. This matter is set for a bench trial on the issue of Permanent Injunctive
3 Relief will on _____.

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5 Dated this __ day of August, 2014.

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8 _____
9 THE HONORABLE JUDGE MARSHA J. PECHMAN
10 UNITED STATES DISTRICT COURT

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12 Submitted by:

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16 /s/ Braden Pence /s/ _____

17 Braden Cyrus Pence, WSBA# 43495
18 Snohomish County Public Defender Association
19 2722 Colby Avenue, Ste. 200
20 ATTORNEY FOR PLAINTIFFS

21

22 Copy received:

23

24 _____

25 Attorney General for the State of Washington
26 ATTORNEY FOR DEFENDANTS

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28 4 - COMPLAINT